REMARKS

Claims 1-20 were pending in this application.

Claims 1-20 have been rejected.

Claims 1, 5-9, 13-15, 19, and 20 have been amended as shown above.

Claims 1-20 remain pending in this application.

Reconsideration and full allowance of Claims 1-20 are respectfully requested.

I. OBJECTION TO SPECIFICATION

The Office Action objects to an informality in the specification. The Applicant has amended the specification as shown above to correct the noted informality. Accordingly, the Applicant respectfully requests withdrawal of the objection to the specification.

II. OBJECTION TO CLAIMS

The Office Action objects to several informalities in the claims. The Applicant has amended the claims as shown above to correct the noted informalities. Accordingly, the Applicant respectfully requests withdrawal of the objections to the claims.

III. REJECTION UNDER 35 U.S.C. § 102

The Office Action rejects Claims 1-7 and 9-20 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,822,987 to Diaz et al. ("*Diaz*"). This rejection is respectfully traversed.

A prior art reference anticipates a claimed invention under 35 U.S.C. § 102 only if every element of the claimed invention is identically shown in that single reference, arranged as they are in the claims. (*MPEP § 2131; In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990)). Anticipation is only shown where each and every limitation of the claimed invention is found in a single prior art reference. (*MPEP § 2131; In re Donohue*, 766 F.2d 531, 534, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985)).

As an initial matter, the Applicant respectfully notes that the Office Action rejects Claims 1-7 and 9-20 under 35 U.S.C. § 102(e) as being anticipated by *Diaz*. However, during the discussion of the § 102 rejection, the Office Action refers to a reference named "Link" (presumably U.S. Patent No. 5,850,409). The Applicant respectfully notes that any reference to U.S. Patent No. 5,850,409 is presumably improper since these claims are rejected under § 102, not § 103. The Applicant respectfully requests clarification of this issue in the next Official communication.

Diaz recites a method and apparatus for driving lasers. (*Abstract*). In some embodiments, *Diaz* uses a control laser (in addition to data lasers), and a photodetector is used to measure light from the control laser to adjust the data lasers. (*Col. 7, Line 43 – Col. 9, Line 25*). In other embodiments, *Diaz* does not use a control laser in addition to the data lasers, and a photodetector is used to measure light from one of the data lasers to adjust all of the data lasers. (*Col. 9, Line 26 – Col. 11, Line 27*). Among other things, this allows *Diaz* to maintain the average power of the data lasers within predetermined limits. (*Col. 5, Lines 40-52*).

Regarding Claims 1 and 9, Claim 1 recites determining an "average output power" of a

"light source" based on an "output signal" of a "monitor diode" and comparing the average output power to a "target value." Claim 1 also recites adjusting the variable output power of the light source by "incrementing or decrementing a logical 1 level current based on the comparison of the average output power to the target value" and "determining a modulation current for the light source using the incremented or decremented logical 1 level current." Claim 9 contains similar recitations.

Diaz lacks any mention of adjusting the control and/or data lasers of *Diaz* in this manner. While *Diaz* mentions controlling the average power of one or more data lasers, *Diaz* lacks any mention of "incrementing or decrementing a logical 1 level current" based on a comparison of an "average output power" to a "target value" and determining a "modulation current" for the light source "using the incremented or decremented logical 1 level current" as recited in Claims 1 and 9.

For these reasons, Claims 1 and 9 (and their dependent claims) are patentable over *Diaz*.

Regarding Claim 15, Claim 15 recites determining an "average output power" of a signal source based on an "output signal" of a "monitor device," comparing the average output power to a "target value," and adjusting an "output power" of the signal source "when the average output power does not equal the target value and a modulation current used to drive the signal source has not reached a maximum or minimum value."

Diaz lacks any mention of adjusting the control and/or data lasers of *Diaz* in this manner. While *Diaz* mentions controlling the average power of one or more data lasers, *Diaz* lacks any mention of adjusting an "output power" of the data lasers in *Diaz* "when [an] average output

power" of the data lasers "does not equal the target value" and a "modulation current" used to drive the data lasers "has not reached a maximum or minimum value" as recited in Claim 15.

For these reasons, Claim 15 and its dependent claims are patentable over *Diaz*.

Accordingly, the Applicant respectfully requests withdrawal of the § 102 rejection and full allowance of Claims 1-7 and 9-20.

IV. REJECTION UNDER 35 U.S.C. § 103

The Office Action rejects Claim 8 under 35 U.S.C. § 103(a) as being unpatentable over *Diaz* in view of U.S. Patent No. 7,106,969 to Lichtman et al. ("*Lichtman*") and possibly U.S. Patent No. 5,850,409 to Link ("*Link*"). This rejection is respectfully traversed.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. (*MPEP § 2142; In re Fritch*, 972 F.2d 1260, 1262, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992)). The initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention is always upon the Patent Office. (*MPEP § 2142; In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Piasecki*, 745 F.2d 1468, 1472, 223 U.S.P.Q. 785, 788 (Fed. Cir. 1984)). Only when a *prima facie* case of obviousness is established does the burden shift to the Applicant to produce evidence of nonobviousness. (*MPEP § 2142; In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993)). If the Patent Office does not produce a *prima facie* case of unpatentability, then without more the Applicant is entitled to grant of a patent. (*In re Oetiker*, 977 F.2d 1443, 1445,

24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Grabiak*, 769 F.2d 729, 733, 226 U.S.P.Q. 870, 873 (Fed. Cir. 1985)).

A *prima facie* case of obviousness is established when the teachings of the prior art itself suggest the claimed subject matter to a person of ordinary skill in the art. (*In re Bell*, 991 F.2d 781, 783, 26 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1993)). To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed invention and the reasonable expectation of success must both be found in the prior art, and not based on the Applicant's disclosure. (*MPEP § 2142*).

Claim 8 depends from Claim 1. As shown above in Section III, Claim 1 is patentable. As a result, Claim 8 is patentable due to its dependence from an allowable base claim.

Accordingly, the Applicant respectfully requests withdrawal of the § 103 rejection and full allowance of Claim 8.

SUMMARY

The Applicant respectfully asserts that all pending claims in this application are in condition for allowance and respectfully requests full allowance of the claims.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *wmunck@munckbutrus.com*.

The Commissioner is hereby authorized to charge any fees connected with this communication (including any extension of time fees) or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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